

AMENDED IN SENATE JULY 3, 2007
AMENDED IN SENATE MAY 31, 2007
AMENDED IN ASSEMBLY MARCH 22, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 341

Introduced by Assembly Member Spitzer

February 14, 2007

An act to amend Sections 9000, 9100, 9102, 9103, 9104, 9250, 9353, 19000, 19011, 19022, 19023, 19025, 19040, 19050, 19051, 19052, 19053, 19100, 19103, 19104, 19150, 19151, 19154, 19201, 19202, 19203, 19252, 19255, and 19304 of the Probate Code, relating to estates and trusts.

LEGISLATIVE COUNSEL'S DIGEST

AB 341, as amended, Spitzer. Estates and trusts: creditor's claims.

(1) Existing law requires the personal representative administering a decedent's estate to provide notice to creditors of the decedent pursuant to a specified procedure. Existing law permits property to be titled in a trust, and provides that, upon the death of a settlor of a trust, the property of the deceased settlor that was subject to the power of revocation at the time of the settlor's death is subject to the claims of creditors of the deceased settlor's estate.

This bill would make various changes in the provisions described above to increase uniformity between the provisions, including (a) establishing a definition of the term "creditor" and using it to replace the term "claimant"; (b) clarifying how notice shall be given to creditors of a decedent's estate; (c) specifying the effect of various provisions on limitations of actions; (d) revising the procedure for giving notice

to a creditor of a trust and lengthening the period of time that a creditor of a trust may file a claim; and (e) revising provisions pursuant to which a creditor of a trust may file, and a court may allow, a late claim.

(2) Existing law requires a trustee to notify the Director of Health Services of the death of a settlor of a trust who the trustee knows or has reason to believe has been receiving health care pursuant to specified provisions.

This bill would require a trustee to notify the Director of Health Services of the death of the spouse of a settlor of a trust who the trustee knows or has reason to believe has been receiving health care services.

(3) Existing law specifies the interest rate to be paid by people who receive distributions of property from a trust prior to the expiration of the time allowed for a public entity to file a claim against the trust, if a public entity subsequently successfully enforces a claim on the trust property.

This bill would revise the rate of interest to be paid on a public entity's claims against distributees receiving trust property, as described above.

(4) The bill would also make other technical and correctional changes to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 9000 of the Probate Code is amended
2 to read:
3 9000. As used in this division:
4 (a) "Claim" means a demand for payment for any of the
5 following, whether due, not due, accrued or not accrued, or
6 contingent, and whether liquidated or unliquidated:
7 (1) Liability of the decedent, whether arising in contract, tort,
8 or otherwise.
9 (2) Liability for taxes incurred before the decedent's death,
10 whether assessed before or after the decedent's death, other than
11 property taxes and assessments secured by real property liens.
12 (3) Liability of the estate for funeral expenses of the decedent.
13 (b) "Claim" does not include a dispute regarding title of a
14 decedent to specific property alleged to be included in the
15 decedent's estate.

1 (c) “Creditor” means a person who may have a claim against
2 estate property.

3 SEC. 2. Section 9100 of the Probate Code is amended to read:

4 9100. (a) A creditor shall file a claim before expiration of the
5 later of the following times:

6 (1) Four months after the date letters are first issued to a general
7 personal representative.

8 (2) Sixty days after the date notice of administration is mailed
9 or personally delivered to the creditor. Nothing in this paragraph
10 extends the time provided in Section 366.2 of the Code of Civil
11 Procedure.

12 (b) A reference in another statute to the time for filing a claim
13 means the time provided in paragraph (1) of subdivision (a).

14 (c) Nothing in this section shall be interpreted to extend or toll
15 any other statute of limitations or to revive a claim that is barred
16 by any statute of limitations. The reference in this subdivision to
17 a “statute of limitations” includes Section 366.2 of the Code of
18 Civil Procedure.

19 SEC. 3. Section 9102 of the Probate Code is amended to read:

20 9102. A claim that is filed before expiration of the time for
21 filing the claim is timely even if acted on by the personal
22 representative or by the court after expiration of the time for filing
23 claims.

24 SEC. 4. Section 9103 of the Probate Code is amended to read:

25 9103. (a) Upon petition by a creditor or the personal
26 representative, the court may allow a claim to be filed after
27 expiration of the time for filing a claim provided in Section 9100
28 if either of the following conditions is satisfied:

29 (1) The personal representative failed to send proper and timely
30 notice of administration of the estate to the creditor, and that
31 petition is filed within 60 days after the creditor has actual
32 knowledge of the administration of the estate.

33 (2) The creditor had no knowledge of the facts reasonably giving
34 rise to the existence of the claim more than 30 days prior to the
35 time for filing a claim as provided in Section 9100, and the petition
36 is filed within 60 days after the creditor has actual knowledge of
37 both of the following:

38 (A) The existence of the facts reasonably giving rise to the
39 existence of the claim.

40 (B) The administration of the estate.

1 (b) Notwithstanding subdivision (a), the court shall not allow
2 a claim to be filed under this section after the court makes an order
3 for final distribution of the estate.

4 (c) The court may condition the claim on terms that are just and
5 equitable, and may require the appointment or reappointment of
6 a personal representative if necessary. The court may deny the
7 creditor's petition if a payment to general creditors has been made
8 and it appears that the filing or establishment of the claim would
9 cause or tend to cause unequal treatment among creditors.

10 (d) Regardless of whether the claim is later established in whole
11 or in part, payments otherwise properly made before a claim is
12 filed under this section are not subject to the claim. Except to the
13 extent provided in Section 9392 and subject to Section 9053, the
14 personal representative or payee is not liable on account of the
15 prior payment. Nothing in this subdivision limits the liability of a
16 person who receives a preliminary distribution of property to
17 restore to the estate an amount sufficient for payment of the
18 distributee's proper share of the claim, not exceeding the amount
19 distributed.

20 (e) Notice of hearing on the petition shall be given as provided
21 in Section 1220.

22 (f) Nothing in this section authorizes allowance or approval of
23 a claim barred by, or extends the time provided in, Section 366.2
24 of the Code of Civil Procedure.

25 SEC. 5. Section 9104 of the Probate Code is amended to read:

26 9104. (a) Subject to subdivision (b), if a claim is filed within
27 the time provided in this chapter, the creditor may later amend or
28 revise the claim. The amendment or revision shall be filed in the
29 same manner as the claim.

30 (b) An amendment or revision may not be made to increase the
31 amount of the claim after the time for filing a claim has expired.
32 An amendment or revision to specify the amount of a claim that,
33 at the time of filing, was not due, was contingent, or was not yet
34 ascertainable, is not an increase in the amount of the claim within
35 the meaning of this subdivision.

36 (c) An amendment or revision may not be made for any purpose
37 after the earlier of the following times:

38 (1) The time the court makes an order for final distribution of
39 the estate.

1 (2) One year after letters are first issued to a general personal
2 representative. This paragraph does not extend the time provided
3 by Section 366.2 of the Code of Civil Procedure or authorize
4 allowance or approval of a claim barred by that section.

5 SEC. 6. Section 9250 of the Probate Code is amended to read:

6 9250. (a) When a claim is filed, the personal representative
7 shall allow or reject the claim in whole or in part.

8 (b) The allowance or rejection shall be in writing. The personal
9 representative shall file the allowance or rejection with the court
10 clerk and give notice to the creditor as provided in Part 2
11 (commencing with Section 1200) of Division 3, together with a
12 copy of the allowance or rejection.

13 (c) The allowance or rejection shall contain the following
14 information:

15 (1) The name of the creditor.

16 (2) The total amount of the claim.

17 (3) The date of issuance of letters.

18 (4) The date of the decedent's death.

19 (5) The estimated value of the decedent's estate.

20 (6) The amount allowed or rejected by the personal
21 representative.

22 (7) Whether the personal representative is authorized to act
23 under the Independent Administration of Estates Act (Part 6
24 (commencing with Section 10400)).

25 (8) A statement that the creditor has 90 days in which to act on
26 a rejected claim.

27 (d) The Judicial Council may prescribe an allowance or rejection
28 form, which may be part of the claim form. Use of a form
29 prescribed by the Judicial Council is deemed to satisfy the
30 requirements of this section.

31 (e) This section does not apply to a demand the personal
32 representative elects to treat as a claim under Section 9154.

33 SEC. 7. Section 9353 of the Probate Code is amended to read:

34 9353. (a) Regardless of whether the statute of limitations
35 otherwise applicable to a claim will expire before or after the
36 following times, a claim rejected in whole or in part is barred as
37 to the part rejected unless, within the following times, the creditor
38 commences an action on the claim or the matter is referred to a
39 referee or to arbitration:

(1) If the claim is due at the time the notice of rejection is given, 90 days after the notice is given.

(2) If the claim is not due at the time the notice of rejection is given, 90 days after the claim becomes due.

(b) The time during which there is a vacancy in the office of the personal representative shall be excluded from the period determined under subdivision (a).

SEC. 8. Section 19000 of the Probate Code is amended to read:

19000. As used in this part:

(a) “Claim” means a demand for payment for any of the following, whether due, not due, accrued or not accrued, or contingent, and whether liquidated or unliquidated:

(1) Liability of the deceased settlor, whether arising in contract, tort, or otherwise.

(2) Liability for taxes incurred before the deceased settlor’s death, whether assessed before or after the deceased settlor’s death, other than property taxes and assessments secured by real property liens.

(3) Liability for the funeral expenses of the deceased settlor.

(b) “Claim” does not include a dispute regarding title to specific property alleged to be included in the trust estate.

(c) “Creditor” means a person who may have a claim against the trust property.

(d) “Trust” means a trust described in Section 18200, or, if a portion of a trust, that portion that remained subject to the power of revocation at the deceased settlor’s death.

(e) “Deceased settlor” means a deceased person who, at the time of his or her death, held the power to revoke the trust in whole or in part.

(f) “Debts” means all claims, as defined in subdivision (a), all expenses of administration, and all other proper charges against the trust estate, including taxes.

SEC. 9. Section 19011 of the Probate Code is amended to read:

19011. (a) The Judicial Council may prescribe the form and contents of the petition, notice, claim form, and allowance or rejection form to be used pursuant to this part. The allowance or rejection form may be part of the claim form.

1 (b) Any claim form adopted by the Judicial Council shall inform
2 the creditor that the claim must be filed with the court and a copy
3 mailed or delivered to the trustee. The claim form shall include a
4 proof of mailing or delivery of a copy of the claim to the trustee,
5 which may be completed by the claimant.

6 SEC. 10. Section 19022 of the Probate Code is amended to
7 read:

8 19022. (a) A proceeding under this chapter is commenced by
9 filing a verified petition stating facts showing that the petition is
10 authorized under this chapter and the grounds of the petition.

11 (b) The petition shall set forth a description of the trust and the
12 names of creditors with respect to which action is requested and
13 a description of each claim, together with the requested
14 determination by the court with respect to the claims, provided,
15 however, that this section does not require the filing of a copy of
16 the trust or disclosure of the beneficial interests of the trust. That
17 petition shall also set forth the beneficiaries of the trust, those
18 claimants whose interest in the trust may be affected by the petition,
19 and the trustees of any other trust to which an allocation of liability
20 may be approved by the court pursuant to the petition.

21 (c) The clerk shall set the matter for hearing.

22 SEC. 11. Section 19023 of the Probate Code is amended to
23 read:

24 19023. At least 30 days before the time set for the hearing on
25 the petition, the petitioner shall cause notice of the time and place
26 of the hearing and a copy of the petition to be served on each of
27 the creditors whose interests in the estate may be affected by the
28 petition in the manner provided in Chapter 4 (commencing with
29 Section 413.10) of Title 5 of Part 2 of the Code of Civil Procedure.

30 SEC. 12. Section 19025 of the Probate Code is amended to
31 read:

32 19025. (a) If any creditor, beneficiary, or trustee fails timely
33 to file a written pleading upon notice, then the case is at issue,
34 notwithstanding the failure. The case may proceed on the petition
35 and written statements filed by the time of the hearing, and no
36 further pleadings by other persons are necessary. The creditor,
37 beneficiary, or trustee who failed timely to file a written pleading
38 upon notice may not participate further in the proceeding for the
39 determination requested, and that creditor, beneficiary, or trustee
40 shall be bound by the decision in the proceeding.

(b) The court's order, when final, shall be conclusive as to the liability of the trust property with respect to the claims at issue in the petition. In the event of a subsequent administration of the estate of the deceased settlor, that order shall be binding on the personal representative of the estate of the deceased settlor as well as all creditors and beneficiaries who had notice of the petition.

SEC. 13. Section 19040 of the Probate Code is amended to read:

19040. (a) Publication of notice pursuant to this section shall be for at least 15 days. Three publications in a newspaper published once a week or more often, with at least five days intervening between the first and last publication dates, not counting the first and last publication dates as part of the five-day period, are sufficient. Notice shall be published in a newspaper of general circulation in the city, county, or city and county in this state where the deceased settlor resided at the time of death, or if none, in the city, county, or city and county in this state wherein trust property was located at the time of the settlor's death, or if none, in the city, county, or city and county in this state wherein the principal place of administration of the trust was located at the time of the settlor's death. If there is no newspaper of general circulation published in the applicable city, county, or city and county, notice shall be published in a newspaper of general circulation published in this state nearest to the applicable city, county, or city and county seat, and which is circulated within the applicable city, county, or city and county. If there is no such newspaper, notice shall be given in written or printed form, posted at three of the most public places within the community. For purposes of this section, "city" means a charter city as defined in Section 34101 of the Government Code or a general law city as defined in Section 34102 of the Government Code.

(b) The caption of the notice, the deceased settlor's name, and the name of the trustee shall be in at least 8-point type, the text of the notice shall be in at least 7-point type, and the notice shall state substantially as follows:

NOTICE TO CREDITORS
OF _____

SUPERIOR COURT OF CALIFORNIA

1 COUNTY OF _____

2 Notice is hereby given to the creditors and contingent creditors
3 of the above-named decedent, that all persons having claims against
4 the decedent are required to file them with the Superior Court, at
5 _____, and mail a copy to _____, as trustee of the trust dated
6 _____ wherein the decedent was the settlor, at _____, within the
7 later of four months after _____ (the date of the first publication of
8 notice to creditors) or, if notice is mailed or personally delivered
9 to you, 60 days after the date this notice is mailed or personally
10 delivered to you. A claim form may be obtained from the court
11 clerk. For your protection, you are encouraged to file your claim
12 by certified mail, with return receipt requested.
13
14

15 (name and address of trustee or attorney)
16

17 (c) An affidavit showing due publication of notice shall be filed
18 with the clerk upon completion of the publication. The affidavit
19 shall contain a copy of the notice, and state the date of its first
20 publication.

21 SEC. 14. Section 19050 of the Probate Code is amended to
22 read:

23 19050. Except as provided in Section 19054, if the trustee has
24 knowledge of a creditor of the deceased settlor, the trustee shall
25 give notice to the creditor. The notice shall be given as provided
26 in Section 1215. For the purpose of this section, a trustee has
27 knowledge of a creditor of the deceased settlor if the trustee is
28 aware that the creditor has demanded payment from the deceased
29 settlor or the trust estate.

30 SEC. 15. Section 19051 of the Probate Code is amended to
31 read:

32 19051. The notice shall be given before expiration of the later
33 of the following times:

34 (a) Four months after the first publication of notice under Section
35 19040.

36 (b) Thirty days after the trustee first has knowledge of the
37 creditor.

38 SEC. 16. Section 19052 of the Probate Code is amended to
39 read:

40 19052. The notice shall be in substantially the following form:

NOTICE TO CREDITORS
OF _____

SUPERIOR COURT OF CALIFORNIA

COUNTY OF _____

Notice is hereby given to the creditors and contingent creditors of the above-named decedent, that all persons having claims against the decedent are required to file them with the Superior Court, at _____, and mail or deliver a copy to _____, as trustee of the trust dated _____ wherein the decedent was the settlor, at _____, within the later of four months after _____ (the date of the first publication of notice to creditors) or, if notice is mailed or personally delivered to you, 60 days after the date this notice is mailed or personally delivered to you, or you must petition to file a late claim as provided in Section 19103 of the Probate Code. A claim form may be obtained from the court clerk. For your protection, you are encouraged to file your claim by certified mail, with return receipt requested.

(Date of mailing this notice if applicable)

(name and address of trustee

or attorney)

SEC. 17. Section 19053 of the Probate Code is amended to read:

19053. (a) If the trustee believes that notice to a particular creditor is or may be required by this chapter and gives notice based on that belief, the trustee is not liable to any person for giving the notice, whether or not required by this chapter.

(b) If the trustee fails to give notice required by this chapter, the trustee is not liable to any person for that failure, unless a creditor establishes all of the following:

(1) The failure was in bad faith.

(2) The creditor did not have actual knowledge of the proceedings under Chapter 1 (commencing with Section 19000) sooner than one year after publication of notice to creditors under

1 Section 19040, and payment would have been made on the
2 creditor's claim if the claim had been properly filed.

3 (3) Within 16 months after the first publication of notice under
4 Section 19040, the creditor did both of the following:

5 (A) Filed a petition requesting that the court in which the
6 proceedings under Chapter 1 (commencing with Section 19000)
7 were initiated make an order determining the liability of the trustee
8 under this subdivision.

9 (B) At least 30 days before the hearing on the petition, caused
10 notice of the hearing and a copy of the petition to be served on the
11 trustee in the manner provided in Chapter 4 (commencing with
12 Section 413.10) of Title 5 of Part 2 of the Code of Civil Procedure.

13 (c) Nothing in this section affects the liability of the trust estate,
14 if any, for the claim of a creditor, and the trustee is not liable to
15 the extent the claim is paid out of the trust estate.

16 (d) Nothing in this chapter imposes a duty on the trustee to make
17 a search for creditors of the deceased settlor.

18 SEC. 18. Section 19100 of the Probate Code is amended to
19 read:

20 19100. (a) A creditor shall file a claim before expiration of
21 the later of the following times:

22 (1) Four months after the first publication of notice to creditors
23 under Section 19040.

24 (2) Sixty days after the date actual notice is mailed or personally
25 delivered to the creditor. This paragraph does not extend the time
26 provided in Section 366.2 of the Code of Civil Procedure.

27 (b) A reference in another statute to the time for filing a claim
28 means the time provided in paragraph (1) of subdivision (a).

29 (c) This section shall not be interpreted to extend or toll any
30 other statute of limitations, including that provided by Section
31 366.2 of the Code of Civil Procedure.

32 SEC. 19. Section 19103 of the Probate Code is amended to
33 read:

34 19103. (a) Except as provided in subdivision (b), upon petition
35 by a creditor or a trustee, the court may allow a claim to be filed
36 after expiration of the time for filing a claim provided in Section
37 19100 if either of the following conditions are satisfied:

38 (1) The trustee failed to send proper and timely notice to the
39 creditor and the petition is filed within 60 days after the creditor
40 has actual knowledge of the administration of the trust.

1 (2) The creditor did not have knowledge of the facts giving rise
2 to the existence of the claim more than 30 days prior to the time
3 for filing a claim as provided in Section 19100, and the petition is
4 filed within 60 days after the creditor has actual knowledge of both
5 of the following:

6 (A) The existence of the facts reasonably giving rise to the
7 existence of the claim.

8 (B) The administration of the trust.

9 (b) Notwithstanding subdivision (a), the court shall not allow
10 a claim to be filed under this section more than one year after the
11 date of first publication of notice to creditors under Section 19040.
12 Nothing in this subdivision authorizes allowance or approval of a
13 claim barred by, or extends the time provided in, Section 366.2 of
14 the Code of Civil Procedure.

15 (c) The court may condition the claim on terms that are just and
16 equitable. The court may deny the claimant's petition if a
17 distribution to trust beneficiaries or payment to general creditors
18 has been made and it appears the filing or establishment of the
19 claim would cause or tend to cause unequal treatment among
20 beneficiaries or creditors.

21 (d) Regardless of whether the claim is later established in whole
22 or in part, property distributed under the terms of the trust
23 subsequent to an order settling claims under Chapter 2
24 (commencing with Section 19020) and payments otherwise
25 properly made before a claim is filed under this section are not
26 subject to the claim. Except to the extent provided in Chapter 12
27 (commencing with Section 19400) and subject to Section 19053,
28 the trustee, distributee, or payee is not liable on account of the
29 prior distribution or payment. This subdivision does not limit the
30 liability of a person who receives a preliminary distribution of
31 property to restore to the trust an amount sufficient for payment
32 of the beneficiary's proper share of the claim, not exceeding the
33 amount distributed.

34 SEC. 20. Section 19104 of the Probate Code is amended to
35 read:

36 19104. (a) Subject to subdivision (b), if a claim is filed within
37 the time provided in this chapter, the creditor may later amend or
38 revise the claim. The amendment or revision shall be filed in the
39 same manner as the claim.

(b) An amendment or revision may not be made to increase the amount of the claim after the time for filing a claim has expired. An amendment or revision to specify the amount of a claim that, at the time of filing, was not due, was contingent, or was not yet ascertainable, is not an increase in the amount of the claim within the meaning of this subdivision. An amendment or revision of a claim may not be made for any purpose after the earlier of the following times:

(1) The time the court makes an order approving settlement of the claim against the deceased settlor under Chapter 2 (commencing with Section 19020).

(2) One year after the date of the first publication of notice to creditors under Section 19040. Nothing in this paragraph authorizes allowance or approval of a claim barred by, or extends the time provided in, Section 366.2 of the Code of Civil Procedure.

SEC. 21. Section 19150 of the Probate Code is amended to read:

19150. (a) A claim may be filed by the creditor or a person acting on behalf of the claimant.

(b) A claim shall be filed with the court and a copy shall be mailed to the trustee. Failure to mail a copy to the trustee does not invalidate a properly filed claim, but any loss that results from the failure shall be borne by the creditor.

SEC. 22. Section 19151 of the Probate Code is amended to read:

19151. (a) A claim shall be supported by the affidavit of the creditor or the person on behalf of the claimant stating:

(1) The claim is a just claim.

(2) If the claim is due, the facts supporting the claim, the amount of the claim, and that all payments on and offsets to the claim have been credited.

(3) If the claim is not due or contingent, or the amount is not yet ascertainable, the facts supporting the claim.

(4) If the affidavit is made by a person other than the creditor, the reason it is not made by the creditor.

(b) The trustee may require satisfactory vouchers or proof to be produced to support the claim. An original voucher may be withdrawn after a copy is provided. If a copy is provided, the copy shall be attached to the claim.

SEC. 23. Section 19154 of the Probate Code is amended to read:

19154. (a) Notwithstanding any other provision of this part, if a creditor makes a written demand for payment within the time specified in Section 19100, the trustee may waive formal defects and elect to treat the demand as a claim that is filed and established under this part by paying the amount demanded.

(b) Nothing in this section limits application of the doctrines of waiver, estoppel, laches, or detrimental reliance or any other equitable principle.

SEC. 24. Section 19201 of the Probate Code is amended to read:

19201. (a) Notwithstanding any other statute, if a claim of a public entity arises under a law, act, or code listed in subdivision (b):

(1) The public entity may provide a form to be used for the written notice or request to the public entity required by this chapter. Where appropriate, the form may require the decedent's social security number, if known.

(2) The claim is barred only after written notice or request to the public entity and expiration of the period provided in the applicable section. If no written notice or request is made, the claim is enforceable by the remedies, and is barred at the time, otherwise provided in the law, act, or code.

(b)

Law, Act, or Code	Applicable Section
Sales and Use Tax Law (Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code)	Section 6487.1 of the Revenue and Taxation Code
Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200) of Division 2 of the Revenue and Taxation Code)	Section 6487.1 of the Revenue and Taxation Code
Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251))	Section 6487.1 of the Revenue and Taxation Code

1	of Division 2 of the Revenue and	
2	Taxation Code)	
3		
4	Motor Vehicle Fuel License Tax Law	Section 7675.1 of the Revenue
5	(Part 2 (commencing with Section	and Taxation Code
6	7301) of Division 2 of the Revenue and	
7	Taxation Code)	
8		
9	Use Fuel Tax Law (Part 3 (commencing	Section 8782.1 of the Revenue
10	with Section 8601) of Division 2 of the	and Taxation Code
11	Revenue and Taxation Code)	
12		
13	Administration of Franchise and	Section 19517 of the Revenue
14	Income Tax Laws (Part 10.2	and Taxation Code
15	(commencing with Section 18401) of	
16	Division 2 of the Revenue and Taxation	
17	Code)	
18		
19	Cigarette Tax Law (Part 13	Section 30207.1 of the
20	(commencing with Section 30001) of	Revenue and Taxation Code
21	Division 2 of the Revenue and Taxation	
22	Code)	
23		
24	Alcoholic Beverage Tax Law (Part 14	Section 32272.1 of the
25	(commencing with Section 32001) of	Revenue and Taxation Code
26	Division 2 of the Revenue and Taxation	
27	Code)	
28		
29	Unemployment Insurance Code	Section 1090 of the
30		Unemployment Insurance
31		Code
32		
33	State Hospitals for the Mentally	Section 7277.1 of the Welfare
34	Disordered (Chapter 2 (commencing	and Institutions Code
35	with Section 7200) of Division 7 of the	
36	Welfare and Institutions Code)	
37		
38	Medi-Cal Act (Chapter 7 (commencing	Section 9202 of the Probate
39	with Section 14000) of Part 3 of	Code

1 Division 9 of the Welfare and
2 Institutions Code)

3
4 Waxman-Duffy Prepaid Health Plan Section 9202 of the Probate
5 Act (Chapter 8 (commencing with Code
6 Section 14200) of Part 3 of Division 9
7 of the Welfare and Institutions Code)
8

9 SEC. 25. Section 19202 of the Probate Code is amended to
10 read:

11 19202. (a) If the trustee knows or has reason to believe that
12 the deceased settlor received health care under Chapter 7
13 (commencing with Section 14000) or Chapter 8 (commencing with
14 Section 14200) of Part 3 of Division 9 of the Welfare and
15 Institutions Code, or was the surviving spouse of a person who
16 received that health care, the trustee shall give the State Director
17 of Health Services notice of the ~~deceased settlor's death~~ *death of*
18 *the deceased settlor or surviving spouse* in the manner provided
19 in Section 215.

20 (b) The director has four months after notice is given in which
21 to file a claim.

22 SEC. 26. Section 19203 of the Probate Code is amended to
23 read:

24 19203. If property in the trust is distributed before expiration
25 of the time allowed a public entity to file a claim, the public entity
26 has a claim against the distributees to the full extent of the public
27 entity's claim or each distributee's share of the distributed property,
28 as set forth in Section 19402, whichever is less. The public entity's
29 claim against distributees includes interest at a rate equal to that
30 specified in Section 19521 of the Revenue and Taxation Code,
31 from the date of distribution or the date of filing the claim by the
32 public entity, whichever is later, plus other accruing costs as in
33 the case of enforcement of a money judgment.

34 SEC. 27. Section 19252 of the Probate Code is amended to
35 read:

36 19252. The trustee shall have the power to pay any claim or
37 portion of a claim and payment shall constitute allowance of the
38 claim to the extent of the payment. The trustee shall have the power
39 to compromise any claim or portion of a claim. If the trustee or
40 the attorney for the trustee is a creditor of the deceased settlor, the

1 trustee shall have the same powers regarding allowance, rejection,
2 payment, or compromise set forth in this chapter.

3 SEC. 28. Section 19255 of the Probate Code is amended to
4 read:

5 19255. (a) A rejected claim is barred as to the part rejected
6 unless the creditor brings an action on the claim or the matter is
7 referred to a referee or to arbitration within the following times,
8 excluding any time during which there is a vacancy in the office
9 of the trustee:

10 (1) If the claim is due at the time of giving the notice of
11 rejection, 90 days after the notice is given.

12 (2) If the claim is not due at the time of giving the notice of
13 rejection, 90 days after the claim becomes due.

14 (b) In addition to any other county in which an action on a
15 rejected claim may be commenced, the action may be commenced
16 in the county or city and county wherein the principal place of
17 administration of the trust is located.

18 (c) The creditor shall file a notice of the pendency of the action
19 or the referral to a referee or to arbitration with the court clerk in
20 the trust proceeding, together with proof of giving a copy of the
21 notice to the trustee as provided in Section 1215. Personal service
22 of a copy of the summons and complaint on the trustee is equivalent
23 to the filing and giving of the notice.

24 (d) Any property distributed by the trustee under the terms of
25 the trust after 120 days from the later of the time the notice of
26 rejection is given or the claim is due and before the notice of
27 pendency of action or referral or arbitration is filed and given,
28 excluding therefrom any time during which there is a vacancy in
29 the office of the trustee, is not subject to the claim. Neither the
30 trustee nor the distributee is liable on account of the distribution.

31 (e) The prevailing party in the action shall be awarded court
32 costs and, if the court determines that the prosecution or defense
33 of the action against the prevailing party was unreasonable, the
34 prevailing party shall be awarded reasonable litigation expenses,
35 including attorney's fees. For the purpose of this subdivision, the
36 prevailing party shall be the trustee if the creditor recovers an
37 amount equal to or less than the amount of the claim allowed by
38 the trustee, and shall be the creditor if the creditor recovers an
39 amount greater than the amount of the claim allowed by the trustee.

SEC. 29. Section 19304 of the Probate Code is amended to read:

19304. (a) An attachment lien may be converted into a judgment lien on property in the trust estate subject to the attachment lien, with the same priority as the attachment lien, in either of the following cases:

(1) Where the judgment debtor dies after entry of judgment in an action in which the property was attached.

(2) Where a judgment is entered after the death of the defendant in an action in which the property was attached.

(b) To convert the attachment lien into a judgment lien, the levying officer shall, after entry of judgment in the action in which the property was attached and before the expiration of the attachment lien, do one of the following:

(1) Serve an abstract of the judgment, and a notice that the attachment lien has become a judgment lien, on the trustee or other person holding property subject to the attachment lien.

(2) Record or file in any office where the writ of attachment and notice of attachment are recorded or filed an abstract of the judgment and a notice that the attachment lien has become a judgment lien. If the attached property is real property, the plaintiff or the plaintiff's attorney may record the required abstract and notice with the same effect as if recorded by the levying officer.

(c) After the death of the settlor, any members of the deceased settlor's family who were supported in whole or in part by the deceased settlor may claim an exemption provided in Section 487.020 of the Code of Civil Procedure for property levied on under the writ of attachment if the right to the exemption exists at the time the exemption is claimed. The trustee may claim the exemption on behalf of members of the deceased settlor's family. The claim of exemption may be made at any time before the time the abstract and notice are served, recorded, or filed under subdivision (b) with respect to the property claimed to be exempt. The claim of exemption shall be made in the same manner as an exemption is claimed under Section 482.100 of the Code of Civil Procedure.